

California Department of Insurance
CHECKLIST FOR INS. CODE, § 10295 ACCELERATED DEATH BENEFITS
Last revised: May 2018

This checklist is intended for use when drafting and filing an accelerated death benefit (ADB) that is payable upon the occurrence of a “qualifying event” under Ins. Code, § 10295(b). It is not a complete list of all legal requirements. All references are to the California Insurance Code, unless otherwise specified. Please add page numbers, where appropriate, if submitting the checklist with your form filing.

SUPPORTING DOCUMENTATION. These documents must be in Supporting Documentation.

A statement of the policy forms with which the ADB will be offered, any underwriting restrictions involving face amount or age, and if the ADB is intended for use with new issues or in force policies, or both. § 10295.2(b).	<input type="checkbox"/>
An actuarial memorandum. § 10295.4.	<input type="checkbox"/>
A copy of any life policy or application to be used with the ADB. § 10292.	<input type="checkbox"/>
Legal memorandum from tax counsel, if required by § 10295.2(c).	<input type="checkbox"/>

SUPPLEMENTAL FORMS. These must be in Supporting Documentation (if previously filed) or the Form Schedule.

Important Notice to Applicant/Buyer Regarding Accelerated Death Benefits. § 10295.3(b).	<input type="checkbox"/>
Notice to Applicant Regarding Replacement of Long-Term Care Insurance. § 10295.9(c) and (d).	<input type="checkbox"/>
Waiver of premium rider, for the life and any ADB premium, if the ADB is offered with term life. § 10295.14(b).	<input type="checkbox"/>

STATEMENTS THAT MUST BE ON THE FIRST PAGE OF THE ADB

Whether the ADB is or is not intended for favorable tax treatment under IRC § 101(g). §10295.1(f).	<input type="checkbox"/>
Notice of the insured’s right to return the ADB, as described in § 10295.8(a) and (b).	<input type="checkbox"/>
Notice that the ADB is renewable for the life of the life policy, if premiums are timely paid. § 10295.15(a).	<input type="checkbox"/>
If offered with a term life policy, notice that the ADB terminates with the term life policy. § 10295.15(b).	<input type="checkbox"/>

COMPULSORY PROVISIONS. The ADB must contain the provisions stated in § 10271(c), or substitute language that is not less favorable to the insured. If the provision is in the life policy, it must be referenced in the ADB.

Entire contract; changes. § 10271(c)(1).	<input type="checkbox"/>	p. __
Reinstatement. § 10271(c)(2).	<input type="checkbox"/>	p. __
Incontestability. § 10271(c)(3). [NOTE: The life policy must also comply with § 10271(c)(3). § 10295.5(e).]	<input type="checkbox"/>	p. __
Notice of Claim. § 10271(c)(4).	<input type="checkbox"/>	p. __
Claim Forms. § 10271(c)(5).	<input type="checkbox"/>	p. __
Proof of Loss. § 10271(c)(6).	<input type="checkbox"/>	p. __
Physical examinations. § 10271(c)(7).	<input type="checkbox"/>	p. __

CERTIFICATION OF CHRONIC ILLNESS. A tax-qualified ADB for chronic illness must explain the following:

The insured may submit certification or request that the insurer arrange for an assessment to be performed by an independent licensed health care practitioner (LHCP). § 10295(b)(2)(B)(ii)(I)-(IV).	<input type="checkbox"/>	p. __
The insured has a right to a second assessment if an independent LHCP determines that the insured is not chronically ill and the LHCP did not personally examine the insured. § 10295(b)(2)(B)(ii)(I).	<input type="checkbox"/>	p. __
A certification of chronic illness must be renewed every 12 months. § 10295(b)(2)(B)(ii)(II).	<input type="checkbox"/>	p. __
The costs to certify chronic illness do not count against the lifetime benefit max. § 10295(b)(2)(B)(ii)(III).	<input type="checkbox"/>	p. __
To be independent of the insurer, the LHCP must not be an employee of the insurer and must not be not compensated in any manner linked to the outcome of the certification. § 10295(b)(2)(B)(ii)(IV).	<input type="checkbox"/>	p. __

BENEFIT PAYMENT PROVISIONS: The ADB must explain and comply with all of the following:

The amount claimed is fixed at the time the claim is approved. § 10295.1(a)(1).	<input type="checkbox"/>	p. __
Payment is not conditioned on the receipt of LTC or medical services. § 10295.1(a)(2).	<input type="checkbox"/>	p. __
The insured may take the amount claimed in a lump sum payment or periodic payments. § 10295.1(a)(3).	<input type="checkbox"/>	p. __
There are no restrictions on the insured's use of the ADB proceeds. § 10295.1(a)(4).	<input type="checkbox"/>	p. __
Payment of the amount claimed is due immediately upon receipt of proof of eligibility. § 10295.1(a)(5).	<input type="checkbox"/>	p. __
Any assignee or irrevocable beneficiary must provide concurrence prior to payment. § 10295.1(a)(6).	<input type="checkbox"/>	p. __
Accidental death benefits shall not be affected by ADB payments, if any death benefit remains. § 10295.1(a)(7).	<input type="checkbox"/>	p. __
The ADB provides a lifetime maximum benefit amount. § 10295.1(b)(1).	<input type="checkbox"/>	p. __
The insured may accelerate more than once on a qualifying event. § 10295.1(b)(2).	<input type="checkbox"/>	p. __
The insured may accelerate on more than one qualifying event. § 10295.1(b)(3).	<input type="checkbox"/>	p. __
There may be tax consequences if accepting more than the tax qualified amount under the IRC. § 10295.1(c).	<input type="checkbox"/>	p. __
If the insured requests an acceleration, the insurer shall send a statement of the effect of payment on the cash value, accumulation amount, death benefit, premium, policy loans, and policy liens. § 10295.6(a).	<input type="checkbox"/>	p. __
Within one month of payment, the insurer shall send a report of any benefits paid during the month and an explanation of any changes to the policy or certificate, death benefits, and cash values. § 10295.6(e).	<input type="checkbox"/>	p. __
Termination of the ADB shall not prejudice the payment of benefits for a qualifying event that occurred while the ADB was in force. § 10295.16.	<input type="checkbox"/>	p. __
The insured has a right to appeal a decision regarding benefit eligibility. § 10295.19.	<input type="checkbox"/>	p. __

PROVISIONS ON COSTS, CHARGES, FEES, AND/OR PREMIUMS

The ADB must contain an explanation of how the insured will pay for the ADB (any premiums, fees, or charges) and a numerical illustration demonstrating the effect, if any, of an ADB payment on the policy's cash value, accumulation account, death benefit, premium, policy loans, and policy liens. § 10295.1(e).	<input type="checkbox"/>	p. __
Any life policy offered with the ADB must have a 60 day grace period. §§ 10295.14(a), 10113.71(a).	<input type="checkbox"/>	p. __
Any present value discount must be disclosed and actuarially sound. § 10295.7(b).	<input type="checkbox"/>	p. __
An ADB payment that pro rata reduces the cash value may be applied to loan repayment, but only on a pro rata basis and with full disclosure of the effects of acceleration. § 10295.6(g).	<input type="checkbox"/>	p. __

APPLICATION REQUIREMENTS

Health-related questions may only require yes/no answers and contain one inquiry per question. § 10295.5(a).	<input type="checkbox"/>
The application must contain the caution statement set forth in § 10295.5(b).	<input type="checkbox"/>
The application or a separate form must ask whether the ADB is intended to replace any long-term care insurance. § 10295.9(a).	<input type="checkbox"/>
The application or a separate form must provide an option to designate a third-party to receive notice of lapse or termination. §§ 10295.14(a), 10113.72.	<input type="checkbox"/>
At the time of application, the insurer must disclose all available premium default protections, if the life policy has a cash value. § 10295.14(c).	<input type="checkbox"/>

PROHIBITIONS. The ADB must not contain the following:

Limitations or exclusions by type of illness, treatment, medical condition, or accident, except for those permitted in § 10271(g)(1)-(4). § 10295.18.	<input type="checkbox"/>
Limitations on preexisting conditions. § 10295.1(d).	<input type="checkbox"/>
A waiting period longer than 30 days. § 10295.6(b).	<input type="checkbox"/>